

2003-47

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My name is Michael Harbut. I'm a Doctor of Medicine with a Master's in Public Health and am a Fellow of the American College of Chest Physicians, where I've also been Chair of the Occupational and Environmental Medicine Section.

I'm the CoDirector of the National Center for Vermiculite and Asbestos-Related Cancers funded by the Centers for Disease Control at the Karmanos Cancer

Institute at Wayne State University, where I also helped discover an early detection test for mesothelioma, the horrendous cancer caused by asbestos.

Our discovery of a protein called osteopontin in the blood of patients with asbestos exposure and/or mesothelioma is considered to be one of the most important advances in cancer medicine in the last 50 years. We published it last October in the New England Journal of Medicine.

I'm also coauthor of the world's largest study of asbestos disease in Ironworkers. We did it at Local 25 in Novi.

I received a Commendation from Governor Engler for my work as Medical Coordinator of the refugee camp in Goma, Zaire during the 1994 Rwandese Civil War and

a medal for my work as Chief US Medical Advisor to Poland's Solidarity during the Cold War.

I'm coauthor of the 2004 American Thoracic Society's Criteria for the Diagnosis and Treatment of Nonmalignant Asbestos Diseases.

My remarks at this time are limited to the proposed "medical criteria."

All this having been said, I want you to know that I think the existing system of adjudicating asbestos claims is unfair and based on the whims and conveniences of attorneys, both plaintiffs and defense.

It is not based in science; it is based on a history of how much money a "B-Reading" will bring. It does not serve patients; it does not serve medicine; it does not serve justice - it is a system which serves first and foremost itself.

A significant number of the patients I see have been herded through mass tort litigation screens, were informed of a "diagnosis" by an attorney, received no follow up asbestos health care and gave up their future legal rights for a small amount of money. They come to me wanting to learn if they really have asbestosis or not, when they will need oxygen or when they'll get cancer.

It's bad and unethical. Something has to be done, and I applaud your understanding of this.

The major problem with the proposal presently under your scrutiny, however, is that although parts of it make good sense, the parts dealing with exposure routes, latencies and other parameters included in the diagnostic medical criteria are out of step with the 2006 science.

To call it "junk science" is to give "junk" a bad name.

I am aware that some of the fine lawyers at the American Bar Association put a lot of time, effort and money into the development of these criteria, but lawyers are folks who should not be practicing medicine or diagnosing human disease, and as a group, are not scientists.

The ABA criteria do not reflect the current science or medicine of asbestosis.

I guess after saying these things, I'd better be sure my insurance premiums are "current."

The Standard of Care for the diagnosis of nonmalignant asbestos disease is found in the American Thoracic Society's 2004 Criteria. International asbestosis experts worked on this Standard for years. It was reviewed and adopted by the American Thoracic Society's General Assembly. It was peer-reviewed and published in the medical literature. It has received no credible medical or scientific challenge. It's the Standard of Care.

Any criteria which do not meet or exceed the ATS criteria fall below the Standard of Care for the diagnosis of asbestos-related disease. Any criteria which do not meet the ATS Standard may not meet the ethical requirements of the ATSDR-funded Association of Occupational and Environmental Clinics.

In those cases, such as in the criteria before you, where B-Reading is the bedrock, and where 21st century technology, such as high-resolution CT scans, epidemiology, physiology, pulmonary medicine, exercise pulmonary function testing and the measurement of osteopontin levels, is excluded, the door to negligence and outright fraud is opened even wider.

This is really the only thing I have to say: Some kind of reform is needed, but any change which does not adopt the American Thoracic Society's 2004 Criteria for the Diagnosis and Treatment of Asbestos-Related Disease does not meet the 2006 Standard of Care. It will do more harm than the present system does.

For me and for my patients, asbestosis is a deadly disease. It is not a

legal inconvenience. Please help their fates to be decided by science and medicine and reason, not backroom deals masquerading behind a veneer of junk science.

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